



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

December 4, 2003

Dear Superintendent/ Administrator:

Re: NCLB 04-07- Summary of NCLB, Title I-A, Section 1120A, Fiscal Requirements, FY2004
Assurance of Comparability form – due January 15, 2004

The fiscal requirements under the Elementary and Secondary Education Act of 1965 (ESEA) remain essentially the same as reauthorized by the No Child Left Behind Act of 2001 (NCLB). The fiscal requirements (Section 1120A) include Maintenance of Effort; Federal Funds to Supplement, not Supplant, Non-Federal Funds; and Comparability of Services. For your reference, the complete text of NCLB can be retrieved at the following U.S. Department of Education website: <http://www.ed.gov/policy/elsec/leg/esea02/index.html>. Please refer to Section 1120A on Fiscal Requirements.

Comparability of Services

An LEA/District may receive funds under Title I, Part A and the Migrant Education Program (MEP) under Title I, Part C) only if state and local funds will be used in participating schools to provide services that, taken as a whole, are at least comparable to the services that the LEA is providing in schools not receiving Title I, Part A and MEP funds. If the LEA/District is serving all schools under this part, funds may be received under this part only if the LEA/District will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school. MEP Note: Please refer to Section 1304 (c)(2) of Title I and the Fiscal Requirements section of the ED Title I, Part C Draft Non-Regulatory Guidance- 10/23/03. An LEA/District receiving MEP funds only, and not Title I-Part A funds, should contact Ms. Marion Herrera, at (602) 542-5138 or mherrer@ade.az.gov.

An LEA may meet the comparability requirements on a grade-span by grade-span or on a school-by-school basis. Each LEA/District must develop procedures for compliance and maintain records that are updated biennially documenting compliance with the comparability requirements.

The Comparability of Services Requirement is met by the LEA/District having records that document that a salary schedule and governing board policies were implemented and that equivalency was achieved among schools in staffing, materials and supplies, or by having the completed Comparability Determination Report (worksheets), ensuring that all schools are comparable with respect to state and local funds using the methods below, on file at the LEA/District administrative office by **January 15, 2004**. In addition, each LEA/District must submit electronically an assurance, the Assurance of Comparability, to the Arizona Department of Education, Academic Achievement Division, that it has met the comparability requirements by **January 15, 2004**.

(NEW) The Assurance of Comparability is only available as an on-line report starting this year using the "Common Logon"/Academic Achievement Reports. To submit this assurance, visit -- <http://www.ade.az.gov/>. An LEA/District with only one building per grade span is exempt from the comparability requirement. However, the LEA/District should still submit an Assurance of Comparability to ADE by January 15, 2004. For your reference, 'Guidelines for Meeting the Fiscal Requirements for Comparability of Services' and the 'Comparability Determination Report' (worksheets) are both available to download at <http://www.ade.az.gov/asd/alert.asp>.

The acceptable methods to determine comparability include: pupil to FTE staff ratio, amount expended for instruction, and/or staff salaries less longevity. These worksheets do not need to be submitted to ADE, but should be kept on file at the LEA/District administrative office and accessible upon request by an auditor or program monitor on a biennial basis. Data should reflect the LEA/District's current year budget.

Maintenance of Effort

An LEA/District may receive its full allocation of Federal funds for any fiscal year only if the State educational agency (SEA) finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90% of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

NO ADDITIONAL FORM REQUIRED. Maintenance of Effort is determined and based on data submitted by the LEA/District in its Annual Financial Report (AFR) to the School Finance Division by October 1st annually for the preceding fiscal year. If an LEA/District fails to meet at least one of the two expenditure tests for maintenance of effort as conducted by ADE, the LEA/District will be notified that its Federal allocation for the current year will be placed on hold while maintenance of effort is reviewed. If the LEA/District has demonstrated a failure to meet maintenance of effort, ADE shall reduce the amount of the allocation of funds in any fiscal year in the exact proportion by which the LEA failed to meet the 90% requirement as described above.

Federal Funds to Supplement, Not Supplant, Non-Federal Funds

An LEA/District shall use Federal funds received under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources (state and/or local funding) for the education of pupils participating in programs assisted under this part, and not to supplant such funds. Essentially, Federal funds cannot be used to provide educational services that are required by state statute or to provide educational/program services that the LEA/District has previously funded with non-Federal funds. Additionally, no LEA/District shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance.

NO ADDITIONAL FORM REQUIRED. The fiscal requirement of "federal funds to supplement, not supplant, non-federal funds" is determined and tested throughout the year during ADE monitoring site visits, the approval process of program budgets, and regular review of monthly expenditure reports. In the event that federal funds are found to supplant non-federal funds, ADE will notify and require the LEA/District to refund that portion of the expended amount as required by law.

Additional questions about the fiscal requirements as outlined in Section 1120A of Public Law 107-110 (NCLB) may be directed to me, your assigned federal program specialist, or Ms. Janet Chin, fiscal compliance program specialist, at (602) 542-7466 or jchin@ade.az.gov.

Sincerely,



Richard J. Valdivia
Deputy Associate Superintendent
Operations
Academic Achievement Division

Cc: NCLB Coordinator